

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 18, 2005

D046092 In re Ott on Habeas Corpus

The petition is denied.

D046102 Victor v. Superior Court of San Diego County/People

The petition is denied.

D045304 In re Diana K., a Juvenile

The juvenile court did not err by finding Diana adoptable. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D046094 In re Ott on Habeas Corpus

The petition is denied.

D046101 In re Turner on Habeas Corpus

The petition is denied.

D045194 In re Owens on Habeas Corpus

For good cause shown the Superior Court of the County of San Diego is ordered to show cause why the relief requested should not be granted. Absent objection on or before April 21, 2005, the briefs on file will be deemed the return and traverse to the order to show cause. Oral argument will be deemed waived unless requested on or before April 25, 2005.

D045558 Galarza v. Professional Paint et al

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party is to bear own costs on appeal.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 19, 2005

D044290 People v. Potter

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Haller, J.; We Concur: McConnell, P.J., Nares, J.

D044976 In re Wright on Habeas Corpus

The petition is denied. CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: McConnell, J., Irion, J.

D040473 Gober et al. v. Ralphs Grocery Company

The order granting a new trial is affirmed and the appeal from the judgment vacated thereby is dismissed. This case is remanded for a new trial on the proper amount of any punitive damages awards to the Finton Plaintiffs. The order denying the award of postjudgment interest is affirmed as to the Finton Plaintiffs and reversed as to Gober and Swann. The trial court is directed, upon proper motion, to award Gober and Swann postjudgment interest on their compensatory and punitive damages awards. All plaintiffs are entitled to costs on appeal. CERTIFIED FOR PARTIAL PUBLICATION. McIntyre, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D043510 People v. Rodriguez

The judgment is affirmed. O'Rourke, J.; I Concur: Nares, Acting P.J.; I Concur in the Result: Haller, J.

D44159 Greene v. Weisbrod

We reverse the superior court's order dated February 26, 2004 requiring Weisbrod to stay at least 100 yards away from Greene and his residence and restraining his conduct toward Greene for three years. The temporary restraining order is reinstated upon the issuance of the remittitur and will remain in effect for 21 days to permit further proceedings on respondent's petition for a permanent restraining order, to the extent the respondent wishes to pursue it. Each party is to bear his own costs on appeal. McIntyre, J.; We Concur: Haller, Acting P.J., Irion, J.

D045105 People v. Bishop

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 20, 2005

D044204 People v. Johnston

The judgment is affirmed as modified. The trial court is directed to strike the \$200 restitution fines imposed on March 4, 2004. The fines imposed on November 25, 2002, and on June 23, 2003, remain in effect. Nares, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D046064 Campbell v. Superior Court of San Diego County/Barrie

For good cause shown the Superior Court of the County of San Diego is ordered to show cause why the relief requested should not be granted. Real parties in interest are directed to file a return to the order to show cause on or before May 11, 2005. Petitioner may file a reply on or before June 1, 2005. Absent objection by the parties on or before June 3, 2005, oral argument will be deemed waived.

In addition to the issues addressed in the petition and the preliminary opposition, the court requests the parties provide briefing in the return and the reply addressing the following issues:

1. What is the impact, if any, of the 1992 amendments to the lis pendens statutes on prior case law holding that the lis pendens procedure is not available in constructive trust or equitable lien cases?
2. Do the amended lis pendens statutes provide sufficient protections to deter potential abuse of the lis pendens procedure if the procedure is deemed available in cases claiming a constructive trust or equitable lien?
3. Should constructive trusts and equitable liens be treated in the same manner as fraudulent conveyances under the lis pendens statutes?

D044134 In re Jaime H., a Juvenile

In light of the People's concessions, we treat the appeal filed February 24, 2004 order denying the motion to reduce the criminal threat and assault with a deadly weapon true findings to misdemeanors as a petition for writ of mandate. We also conclude no useful purpose could reasonably be served by issuance of an order to show cause or plenary consideration of the matter, and remand to the trial court with directions to conduct further proceedings on whether the true findings should be reduced to misdemeanors. Haller, J.; We Concur: Benke, Acting P.J., Nares, J.

D045043 In re Alejandro S. et al., Juveniles

The order terminating Amber's parental rights is reversed. Amber's appeal from the order denying her section 388 petition is dismissed. McIntyre, J.; We Concur: McDonald, Acting P.J., Irion, J.

D046024 In re Meyer on Habeas Corpus

The petition is denied.

D044901 In re Marriage of Walters

Judgment affirmed. Benke, J.; We Concur: McConnell, P.J., Aaron, J.

D044301 People v. Robert C.

The trial court's order preventing Robert from owning or possessing firearms for five years pursuant to section 8103, subdivision (f)(1) is reversed. The case is remanded to the trial court with directions to enter a new order that Robert may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase firearms pursuant to section 8103, subdivision (f)(1). In addition, the trial court is directed to order the San Diego Police Department to return Robert's firearms to him. Aaron, J.; We Concur: McConnell, P.J., HJuffman, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 20, 2005 (Continued)

D044101 People v. Viel

The judgment is modified by staying pursuant to Penal Code section 654 execution of the concurrent two-year prison term imposed for Viel's forgery conviction. The judgment is affirmed in all other respects. The superior court clerk is directed to issue an amended abstract of judgment reflecting the modified judgment and forward a certified copy to the Department of Corrections. McDonald, Acting P.J.;
We Concur: McIntyre, J., Irion, J.

D043744 Molnar v. Regents of the University of California et al.

The judgment is affirmed. Benke, Acting P.J.: We Concur: McDonald, J., McIntyre, J.

D046099 In re Tolliver on Habeas Corpus

The petition is denied.

D045344 In re C.G., a Juvenile

The order terminating S.O.'s parental rights is reversed. On remand, the trial court must require the Agency to give notice as required by the ICWA and its implementing regulations. If there is no timely response, or if the response raises no substantial question as to whether C.G. is an Indian child, the trial court must reinstate its original order. If, however, the response does raise a substantial question as to whether C.G. is an Indian child, the trial court must hold further proceedings consistent with the ICWA. Even then, if it determines, in the course of such proceedings, that the ICWA does not otherwise apply, it must reinstate its original order. (See In re Suzanna L., supra, 104 Cal.App.4th at p 237). Benke, J.;
We Concur: McConnell, P.J., Nares, J.

D045099 In re K.P., a Minor

The order is affirmed. Nares, J.; We Concur: McConnell, P.J., Huffman, J.

D043913 People v. Curry

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Huffman, J.

D045827 In re Viel on Habeas Corpus

The petition is denied. McDonald, Acting P.J.; We Concur: McIntyre, J., Irion, J.

D044087 King v. Tri-City Medical Center

The judgment is affirmed. Benke, J.; We Concur: McConnell, P.J., Huffman, J.

D044200 People v. Young

D044662 People v. Young

(Consolidated) The petition for rehearing is denied.

D042545 San Diego Metropolitan Transit Development Board v. RV Communities

The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 21, 2005

D044571 Loganbach v. County of San Diego

Upon written request filed by cross-appellant, the cross-appeal is dismissed.

D045456 People v. Arballo

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is DISMISSED and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).

D044710 People v. Phan

The judgment is affirmed as modified to strike the gang conditions. Nares, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D044469 Rodriguez v. McCabe Union School District

The judgment is reversed and the matter is remanded for trial or other proceedings consistent with this opinion. Rodriguez is awarded costs on appeal. Aaron, J.; We Concur: McConnell, P.J., Huffman, J.

D046104 In re Baker on Habeas Corpus.

The petition is denied.

D045619 In re K.A., a Juvenile

The appeals are dismissed. Huffman, Acting P.J.; We Concur: Nares, J., Aaron, J.

D046162 Truong v. Superior Court of San Diego County/People

For good cause shown the Superior Court of the County of San Diego is ordered to show cause why the relief requested show not be granted. Absent objection on or before April 29, 2005, the briefs on file will be deemed the return and reply to the order to show cause. Absent a request on or before May 4, 2005, oral argument will be deemed waived.

D046105 In re Locicero on Habeas Corpus

The petition is denied.

D046106 In re Medina on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 22, 2005

D046054 Autumn A. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Autumn A. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case as to Autumn A. is dismissed.

D046021 In re Scott on Habeas Corpus

The petition is denied.

D045711 In re Angelina G., a Juvenile

The appeal is dismissed. Benke, Acting P.J.; We Concur: Huffman, J., Nares, J.

D044752 People v. William D.

The juvenile court's true finding that William committed aggravated battery is affirmed. The true finding William unlawfully fought on school grounds is reversed. McDonald, J.; We Concur: McConnell, P.J., Nares, J.

D044867 In re Samantha S. et al, Juveniles

The judgments are affirmed. Aaron, J.; We Concur: Haller, Acting P.J., Irion, J.

D044316 People v. Brown

The conviction of gross vehicular manslaughter while intoxicated and the sentence are affirmed. The remaining convictions are reversed. The trial court shall modify the abstract of judgment to conform with this opinion and advise the Department of Corrections of the modification. Huffman, Acting P.J.; We Concur: Haller, J., Aaron, J.

D046108 In re Green on Habeas Corpus

The petition is denied.

D046111 Nansen v. Superior Court of San Diego County/Clayton

The petition is denied.

D045717 In re Wright on Habeas Corpus

The petition is denied.